

**NOT FOR PUBLICATION**

**MAR 15 2006**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

VICTOR LEONEL VALENCIA  
ALVARADO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-74925

Agency No. A72-693-239

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted March 8, 2006\*\*

Before: CANBY, BEEZER and KOZINSKI, Circuit Judges.

Victor Leonel Valencia Alvarado, a native and citizen of Mexico, petitions  
for review of the Board of Immigration Appeals' ("BIA") affirmance of an

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\* This disposition is not appropriate for publication and may not be cited  
to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral  
argument. *See* Fed. R. App. P. 34(a)(2).

Immigration Judge's denial of his applications for asylum, withholding of removal, and for relief under the Convention Against Torture ("CAT").

We lack jurisdiction to review the BIA's determination that petitioner is statutorily ineligible for asylum based on the one-year time bar. *See Ramadan v. Gonzales*, 427 F.3d 1218, 1221-22 (9th Cir. 2005).

We have jurisdiction under 8 U.S.C. § 1252 to review his remaining claims. Petitioner's withholding of removal claim fails because he has not shown that it is more likely than not that he would be subject to persecution on account of an enumerated ground. *See All-Harbi v. INS*, 242 F.3d 882, 888 (9th Cir. 2001). Because petitioner failed to raise his CAT claim in his opening brief, this claim is waived. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

The voluntary departure period is stayed pursuant to *Desta v. Ashcroft*, 365 F.3d 741, 750 (9th Cir. 2004).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**